

AN ACT

relating to telemedicine medical services, telehealth services, and home telemonitoring services provided to certain Medicaid recipients.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 531.001, Government Code, is amended by adding Subdivisions (4-a), (7), and (8) to read as follows:

(4-a) "Home telemonitoring service" means a health service that requires scheduled remote monitoring of data related to a patient's health and transmission of the data to a licensed home health agency or a hospital, as those terms are defined by Section 531.02164(a).

(7) "Telehealth service" means a health service, other than a telemedicine medical service, that is delivered by a licensed or certified health professional acting within the scope of the health professional's license or certification who does not perform a telemedicine medical service and that requires the use of advanced telecommunications technology, other than telephone or facsimile technology, including:

(A) compressed digital interactive video, audio, or data transmission;

(B) clinical data transmission using computer imaging by way of still-image capture and store and forward; and

(C) other technology that facilitates access to

health care services or medical specialty expertise.

(8) "Telemedicine medical service" means a health care service that is initiated by a physician or provided by a health professional acting under physician delegation and supervision, that is provided for purposes of patient assessment by a health professional, diagnosis or consultation by a physician, or treatment, or for the transfer of medical data, and that requires the use of advanced telecommunications technology, other than telephone or facsimile technology, including:

(A) compressed digital interactive video, audio, or data transmission;

(B) clinical data transmission using computer imaging by way of still-image capture and store and forward; and

(C) other technology that facilitates access to health care services or medical specialty expertise.

SECTION 2. Section 531.0216, Government Code, is amended to read as follows:

Sec. 531.0216. PARTICIPATION AND REIMBURSEMENT OF
TELEMEDICINE MEDICAL SERVICE PROVIDERS AND TELEHEALTH SERVICE PROVIDERS UNDER MEDICAID. (a) The commission by rule shall develop and implement a system to reimburse providers of services under the state Medicaid program for services performed using telemedicine medical services or telehealth services.

(b) In developing the system, the executive commissioner by rule shall:

(1) review programs and pilot projects in other states to determine the most effective method for reimbursement;

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- 1 (2) establish billing codes and a fee schedule for
2 services;
- 3 (3) provide for an approval process before a provider
4 can receive reimbursement for services;
- 5 (4) consult with the Department of State Health
6 Services and the telemedicine and telehealth advisory committee to
7 establish procedures to:
- 8 (A) identify clinical evidence supporting
9 delivery of health care services using a telecommunications system;
10 and
- 11 (B) ~~[establish pilot studies for telemedicine~~
12 ~~medical service delivery, and~~
- 13 [~~(C)~~] annually review health care services,
14 considering new clinical findings, to determine whether
15 reimbursement for particular services should be denied or
16 authorized;
- 17 (5) ~~[establish pilot programs in designated areas of~~
18 ~~this state under which the commission, in administering~~
19 ~~government-funded health programs, may reimburse a health~~
20 ~~professional participating in the pilot program for telehealth~~
21 ~~services authorized under the licensing law applicable to the~~
22 ~~health professional,~~
- 23 [~~(6)~~] establish a separate provider identifier for
24 telemedicine medical services providers, telehealth services
25 providers, and home telemonitoring services providers; and
- 26 (6) [~~(7)~~] establish a separate modifier for
27 telemedicine medical services, telehealth services, and home

1 telemonitoring services eligible for reimbursement.

2 (c) The commission shall encourage health care providers
3 and health care facilities to participate as telemedicine medical
4 service providers or telehealth service providers in the health
5 care delivery system. The commission may not require that a
6 service be provided to a patient through telemedicine medical
7 services or telehealth services when the service can reasonably be
8 provided by a physician through a face-to-face consultation with
9 the patient in the community in which the patient resides or
10 works. This subsection does not prohibit the authorization of the
11 provision of any service to a patient through telemedicine medical
12 services or telehealth services at the patient's request.

13 (d) Subject to Section 153.004, Occupations Code, the
14 commission may adopt rules as necessary to implement this
15 section. In the rules adopted under this section, the commission
16 shall:

17 (1) refer to the site where the patient is physically
18 located as the patient site; and

19 (2) refer to the site where the physician or health
20 professional providing the telemedicine medical service or
21 telehealth service is physically located as the distant site.

22 (e) The commission may not reimburse a health care facility
23 for telemedicine medical services or telehealth services provided
24 to a Medicaid recipient unless the facility complies with the
25 minimum standards adopted under Section 531.02161.

26 (f) Not later than December 1 of each even-numbered year,
27 the commission shall report to the speaker of the house of

1 representatives and the lieutenant governor on the effects of
 2 telemedicine medical services, telehealth services, and home
 3 telemonitoring services on the Medicaid program in the state,
 4 including the number of physicians, ~~[and]~~ health professionals, and
 5 licensed health care facilities using telemedicine medical
 6 services, telehealth services, or home telemonitoring services,
 7 the geographic and demographic disposition of the physicians and
 8 health professionals, the number of patients receiving
 9 telemedicine medical services, telehealth services, and home
 10 telemonitoring services, the types of services being provided, and
 11 the cost of utilization of telemedicine medical services,
 12 telehealth services, and home telemonitoring services to the
 13 program.

14 ~~[(g) In this section:~~

15 ~~[(1) "Telehealth service" has the meaning assigned by~~
 16 ~~Section 57.042, Utilities Code.~~

17 ~~[(2) "Telemedicine medical service" has the meaning~~
 18 ~~assigned by Section 57.042, Utilities Code.]~~

19 SECTION 3. The heading to Section 531.02161, Government
 20 Code, is amended to read as follows:

21 Sec. 531.02161. TELEMEDICINE, TELEHEALTH, AND HOME
 22 TELEMONITORING TECHNOLOGY STANDARDS.

23 SECTION 4. Subsection (b), Section 531.02161, Government
 24 Code, is amended to read as follows:

25 (b) The commission and the Telecommunications
 26 Infrastructure Fund Board by joint rule shall establish and adopt
 27 minimum standards for an operating system used in the provision of

telemedicine medical services, telehealth services, or home telemonitoring services by a health care facility participating in the state Medicaid program, including standards for electronic transmission, software, and hardware.

SECTION 5. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.02164 to read as follows:

Sec. 531.02164. MEDICAID SERVICES PROVIDED THROUGH HOME TELEMONITORING SERVICES. (a) In this section:

(1) "Home health agency" means a facility licensed under Chapter 142, Health and Safety Code, to provide home health services as defined by Section 142.001, Health and Safety Code.

(2) "Hospital" means a hospital licensed under Chapter 241, Health and Safety Code.

(b) If the commission determines that establishing a statewide program that permits reimbursement under the state Medicaid program for home telemonitoring services would be cost-effective and feasible, the executive commissioner by rule shall establish the program as provided under this section.

(c) The program required under this section must:

(1) provide that home telemonitoring services are available only to persons who:

(A) are diagnosed with one or more of the following conditions:

(i) pregnancy;

(ii) diabetes;

(iii) heart disease;

(iv) cancer;

(v) chronic obstructive pulmonary disease;
(vi) hypertension;
(vii) congestive heart failure;
(viii) mental illness or serious emotional
disturbance;

(ix) asthma;
(x) myocardial infarction; or
(xi) stroke; and

(B) exhibit two or more of the following risk
factors:

(i) two or more hospitalizations in the
prior 12-month period;

(ii) frequent or recurrent emergency room
admissions;

(iii) a documented history of poor
adherence to ordered medication regimens;

(iv) a documented history of falls in the
prior six-month period;

(v) limited or absent informal support
systems;

(vi) living alone or being home alone for
extended periods of time; and

(vii) a documented history of care access
challenges;

(2) ensure that clinical information gathered by a
home health agency or hospital while providing home telemonitoring
services is shared with the patient's physician; and

1 (3) ensure that the program does not duplicate disease
2 management program services provided under Section 32.057, Human
3 Resources Code.

4 (d) If, after implementation, the commission determines
5 that the program established under this section is not
6 cost-effective, the commission may discontinue the program and stop
7 providing reimbursement under the state Medicaid program for home
8 telemonitoring services, notwithstanding Section 531.0216 or any
9 other law.

10 (e) The commission shall determine whether the provision of
11 home telemonitoring services to persons who are eligible to receive
12 benefits under both the Medicaid and Medicare programs achieves
13 cost savings for the Medicare program.

14 SECTION 6. The heading to Section 531.02172, Government
15 Code, is amended to read as follows:

16 Sec. 531.02172. TELEMEDICINE AND TELEHEALTH ADVISORY
17 COMMITTEE.

18 SECTION 7. Subsections (a) and (b), Section 531.02172,
19 Government Code, are amended to read as follows:

20 (a) The executive commissioner shall establish an advisory
21 committee to assist the commission in:

22 (1) evaluating policies for telemedical consultations
23 under Sections 531.02163 and 531.0217;

24 (2) ~~[evaluating policies for telemedicine medical~~
25 ~~services or telehealth services pilot programs established under~~
26 ~~Section 531.02171,~~

27 ~~[(3)]~~ ensuring the efficient and consistent

1 development and use of telecommunication technology for
2 telemedical consultations and telemedicine medical services or
3 telehealth services reimbursed under government-funded health
4 programs;

5 (3) [~~4~~] monitoring the type of consultations and
6 other services [~~programs~~] receiving reimbursement under Section
7 [~~Sections~~] 531.0217 [~~and 531.02171~~]; and

8 (4) [~~5~~] coordinating the activities of state
9 agencies concerned with the use of telemedical consultations and
10 telemedicine medical services or telehealth services.

11 (b) The advisory committee must include:

12 (1) representatives of health and human services
13 agencies and other state agencies concerned with the use of
14 telemedical and telehealth consultations and home telemonitoring
15 services in the Medicaid program and the state child health plan
16 program, including representatives of:

17 (A) the commission;

18 (B) the Department of State Health Services;

19 (C) the Texas Department of Rural Affairs;

20 (D) the Texas Department of Insurance;

21 (E) the Texas Medical Board;

22 (F) the Texas Board of Nursing; and

23 (G) the Texas State Board of Pharmacy;

24 (2) representatives of health science centers in this
25 state;

26 (3) experts on telemedicine, telemedical
27 consultation, and telemedicine medical services or telehealth

services; ~~and~~

(4) representatives of consumers of health services provided through telemedical consultations and telemedicine medical services or telehealth services; and

(5) representatives of providers of telemedicine medical services, telehealth services, and home telemonitoring services.

SECTION 8. Subsection (c), Section 531.02173, Government Code, is amended to read as follows:

(c) The commission shall perform its duties under this section with assistance from the telemedicine and telehealth advisory committee established under Section 531.02172.

SECTION 9. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.02176 to read as follows:

Sec. 531.02176. EXPIRATION OF MEDICAID REIMBURSEMENT FOR PROVISION OF HOME TELEMONITORING SERVICES. Notwithstanding any other law, the commission may not reimburse providers under the Medicaid program for the provision of home telemonitoring services on or after September 1, 2015.

SECTION 10. The following provisions of the Government Code are repealed:

(1) Subsection (a), Section 531.02161;

(2) Subdivisions (3) and (4), Subsection (a), Section 531.0217;

(3) Section 531.02171, as added by Chapter 661 (H.B. 2700), Acts of the 77th Legislature, Regular Session, 2001; and

(4) Section 531.02171, as added by Chapter 959 (S.B.

1536), Acts of the 77th Legislature, Regular Session, 2001.

SECTION 11. Not later than December 31, 2012, the Health and Human Services Commission shall submit a report to the governor, the lieutenant governor, and the speaker of the house of representatives regarding the establishment and implementation of the program to permit reimbursement under the state Medicaid program for home telemonitoring services under Section 531.02164, Government Code, as added by this Act. The report must include:

(1) the methods used by the commission to determine whether the program was cost-effective and feasible; and

(2) if the program has been established, information regarding:

(A) the utilization of home telemonitoring services by Medicaid recipients under the program;

(B) the health outcomes of Medicaid recipients who receive home telemonitoring services under the program;

(C) the hospital admission rate of Medicaid recipients who receive home telemonitoring services under the program;

(D) the cost of the home telemonitoring services provided under the program; and

(E) the estimated cost savings to the state as a result of the program.

SECTION 12. If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or

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1 authorization and may delay implementing that provision until the
2 waiver or authorization is granted.

3 SECTION 13. This Act takes effect September 1, 2011.

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David Newkum

President of the Senate

Joe Straus

Speaker of the House

I hereby certify that S.B. No. 293 passed the Senate on April 7, 2011, by the following vote: Yeas 31, Nays 0; May 27, 2011, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 27, 2011, House granted request of the Senate; May 29, 2011, Senate adopted Conference Committee Report by the following vote: Yeas 31, Nays 0.

Patsy Saw

Secretary of the Senate

I hereby certify that S.B. No. 293 passed the House, with amendments, on May 25, 2011, by the following vote: Yeas 146, Nays 0, two present not voting; May 27, 2011, House granted request of the Senate for appointment of Conference Committee; May 29, 2011, House adopted Conference Committee Report by the following vote: Yeas 146, Nays 0, one present not voting.

Robert Haney

Chief Clerk of the House

Approved:

17 JUN '11

Date

Rick Perry

Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
4pm O'CLOCK

JUN 17 2011

Boyd R. Davis

Secretary of State